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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,658	09/29/2003	Robert Bennett	1087.1020	9027
21171	7590	06/07/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			RIDLEY, RICHARD	
			ART UNIT	PAPER NUMBER
			3651	

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

BA
Application No.

10/671,658

Applicant(s)

BENNETT, ROBERT

Examiner

Richard Ridley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 19-24 and 26 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 3, 5-18, 25 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “sliding the first and second grippers” and the array being moved by “rotating the first and second grippers” must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 2, & are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 recites the limitation "...so that conveyed packets become stacked together..." and also recites "...so that the first and second gripping members mechanically move independently of each other...". No structure is providing in the claim that will allow for these functions. Using phrase "so that" without any supporting structure to allow for the claimed recitations render the claim unclear. How does the first and second gripping members mechanically move independently of each other? How does the conveyed packets become stacked together? Similarly, Claims 2 recites the limitation "...so that the first and second gripping members mechanically move independently of each other...".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 25, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Rogovein et al. USP 5,425,565.

Rogovein discloses a similar device comprising a(n):

- Stacking conveyor
- First and second gripping members (92, 102) automatically controlled so that the first and second gripping members mechanically move independently (83, 84, 93, 111, 104, 105; figures 1 & 12) of each other (the arm move independently of each other)
- First and second drive motors (83, 94) or means for automatically gripping the first and second gripping members
- The gripping forces are changeable

5. Claims 1, 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Koehler et al. USP 6,182,814. Koehler discloses a similar device comprising a(n):

- Stacking conveyor
- First and second gripping members (70, 80; C1/L47-54) automatically controlled so that the first and second gripping members mechanically move independently
- First and second endless belts (77, 87)

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6. Claims 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 25, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Convey, Jr. USP 5598381. Convey, Jr discloses a similar device comprising a(n):

- Stacking conveyor
- First and second gripping members (46, 48, 39, 41) automatically controlled so that the first and second gripping members mechanically move independently (C4/L3-16) of each other
- First and second drive motors (C4/L3-16) or means for automatically gripping the first and second gripping members
- The gripping forces are changeable

Allowable Subject Matter

7. Claim 19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

8. Claims 4, 20-24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments filed have been fully considered but they are not persuasive.

Regarding Rogovein USP 5,425,565, the applicant argues that gripper arms 92 and 102 do not move independently of each other and that since gripper arms 92 and 102 are be

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controlled in the exact same manner at the exact same time, the gripper arms 92 and 102 cannot move separately from each other.

In response the examiner notes that grippers arm do indeed move independently of each other (see 83, 84, 93, 111, 104, 105; figures 1 & 12).

Regarding Koehler et al. USP 6,182,814, the applicant argues that there is no gripping force between the fingers.

In response the examiner notes column 1, lines 47-54 of Koehler et al. USP 6,182,814, which states that *“stopping finger is inserted before each slug in the vacuum chamber to partition the slugs and to prevent the slug from moving too fast in the vacuum. A pushing finger is inserted after each slug to push it along against positive pressure in the downstream portion of the vacuum chamber, and to push the slug after it exits the vacuum chamber. The pushing finger may be used to propel the slug to the wrapping device.* If one finger stops (prevents it from moving too fast) the slug while another finger pushes the slug, then the fingers grip the slug.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Ridley whose telephone number is (571) 272-6917. The examiner can normally be reached on Mon-Fri 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Richard Ridley
3 June 2005

Richard Ridley
Primary Examiner
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